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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 30, 1997

VIA HAND-DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

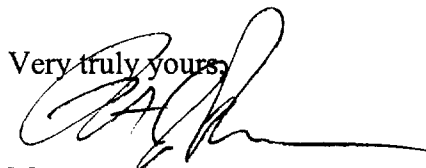
Re: **RM-9101**

Dear Mr. Caton:

On behalf of WinStar Communications, Inc., enclosed are an original and four copies of its Reply Comments in RM-9101. Also enclosed is an extra copy of the Comments. Please date stamp the extra copy and return it to the undersigned in the self-addressed, stamped envelope provided.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,



Morton J. Posner

Enclosures

cc: Janice M. Myles (2 copies & diskette)
ITS (1 copy & diskette)
Timothy Graham (w/encl.)
Robert G. Berger, Esq. (w/encl.)
Russell M. Blau, Esq. (w/encl.)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUL 30 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Petition for Expedited Rulemaking)
To Establish Reporting Requirements and) RM 9101
Performance and Technical Standards for)
Operations Support Systems)
_____)

**REPLY COMMENTS OF
WINSTAR COMMUNICATIONS, INC.**

WinStar Communications, Inc. ("WinStar"), by counsel, hereby files its Reply Comments in support of the captioned LCI International Telecom Corp. and Competitive Telecommunications Association Petition for Expedited Rulemaking.

I. THE REQUESTED RELIEF IS WELL WITHIN THE COMMISSION'S JURISDICTION

The July 18, 1997 U.S. Court of Appeals for the Eighth Circuit decision in *Iowa Utilities Board v. FCC*, Nos. 96-3321 ("Local Competition Decision") supports the relief requested in the Petition. As the Eighth Circuit recognized, Section 251(d)(2) of the Telecommunications Act of 1996 ("1996 Act") authorizes the Commission to "determin[e] what network elements should be made available for purposes of [unbundled access]."^{1/} The Local Competition Decision confirms that the Commission properly exercised its authority under section 251(d)(2) when it found that Operations Support Service ("OSS") is a network element that must be made available for purposes of unbundled access.^{2/} The OSS performance standards the Petition seeks will implement the

^{1/} 47 U.S.C. § 251(d)(2), cited in Local Competition Decision, slip op. at 103 n. 10, 119 n. 23.

^{2/} Local Competition Decision at 133; see 47 C.F.R. § 51.319 (ordering OSS unbundling).

Commission's decision by defining what the ILECs must do to make OSS "available for purposes of [unbundled access]." The Eighth Circuit's decision establishes that the Commission has authority not only to define what network elements must be available to competitors, but also to define what the ILECs must do to make that element available. The Commission's authority to take steps to ensure interconnectivity is well established,^{3/} and the 1996 Act reaffirms this authority to oversee efforts to promote nondiscriminatory telecommunications network access in Section 256.

II. PETITION OPPONENTS UNPERSUASIVELY ARGUE THAT OSS PERFORMANCE STANDARDS AND REPORTING REQUIREMENTS ARE NOT NECESSARY

The ILECs' Comments argue that state commissions should be responsible for establishing performance standards and reporting requirements for OSS.^{4/} This view reflects parochial -- and self-interested -- views regarding interconnection. Carriers like WinStar are attempting to compete against Regional Bell Operating Companies ("RBOCs") which have had monopolies for up to 100 years.^{5/} BellSouth claims that "national performance standards would be superfluous" because it offers nine state quality-of-service measurements under a regional interconnection agreement with AT&T.^{6/} Unlike the ILECs themselves, however, WinStar must support multiple separate processes to interact with multiple ILEC operations support. Some of these processes vary state-by-state, even within an RBOC's serving area. Maintaining a significant number of separate OSS processes will make local competition an unrealizable dream.

^{3/} See WinStar Comments at 10 n.14.

^{4/} See Comments of Ameritech at 7, Bell Atlantic and NYNEX at 5, BellSouth at 19, USTA at 10.

^{5/} See WinStar Comments at 3.

^{6/} BellSouth Comments at 16.

The ILECs' position also is inconsistent with common practice in virtually every other electronic interface industry. Interexchange carrier orders are made through use of a standardized interface, Electronic Data Interchange. Video cassette recorders rely on a common VHS format.^{7/} When available, High Definition Television will be offered in a standard format. Personal computers relied many years on a MSDOS operating system as a standard, which now appears to be transitioning to a Windows environment-based standard. National industries necessarily rely on standard electronic formats.

Commission participation in encouraging national standards is critical to the success of local competition. As the Eighth Circuit ruled, the Commission has authority to define what "available for purposes of [unbundled access]" means. The ILECs' failure to make OSS available on a meaningful basis to competing carriers has rendered virtually meaningless the Commission's decision that OSS is a network element which the ILECs must make available on an unbundled basis. Thus, it is necessary for the Commission to regulate the ILECs' performance in making OSS available to competitors, in order to carry out its expressly granted authority to define what network elements must be made available.

BellSouth complains about the financial impact that nationwide OSS standards may impose.^{8/} If BellSouth's publicly available financial data is to be believed, the Commission need have no worry about the finances of RBOCs with entrenched customer bases.^{9/} Lest there be any doubt that

^{7/} A competing format, Beta, failed in part because its standard was proprietary.

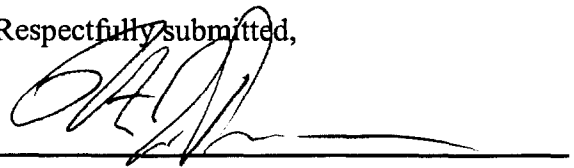
^{8/} BellSouth Comments at 16; *see* USTA Comments at 19.

^{9/} In the second quarter of this year, BellSouth reported a 12.7% increase in earnings per share, the 18th consecutive quarter of improved operating results. *See* Exhibit A.

RBOCs themselves compile internal OSS performance data, one need only look as far as the much heralded commitments to which Bell Atlantic and NYNEX agreed to abide in connection with their proposed merger. Apparently, Bell Atlantic and NYNEX can produce extensive Performance Monitoring Reports, for itself and interconnected competitors, within 90 days notice.^{10/} Clearly, RBOCs can and do assemble OSS performance reports. The Commission need have no hesitation in ordering the relief that the Petitioners request.

For the above reasons, as well as those set out in its Comments, WinStar respectfully requests that the Petition for Expedited rulemaking be granted.

Respectfully submitted,



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Counsel for WinStar Communications, Inc.

Dated: July 30, 1997

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^{10/} See July 19, 1997 Letter from Thomas J. Tauke and Edward D. Young, III, to Kathleen Levitz, *In the Matter of the Application of Bell Atlantic Corporation and NYNEX Corporation for Consent to Transfer*, NSD-L-96-10.

EXHIBIT A

BELLSOUTH

ENTER

BELLSOUTH REPORTS STRONG SECOND QUARTER EARNINGS

Additional lines in residences set record; New Internet, wireless services both pass 100,000 customers

For Immediate Release:

July 21, 1997

ATLANTA — BellSouth Corporation (NYSE: BLS) reported a 12.7 percent increase in second quarter earnings per share (EPS) before a special item. The company said telephone customers in the South installed additional lines in record numbers, marketing continued to drive high growth in convenience features, and its wireless operations expanded further through customer growth, international acquisitions and new services.

It was BellSouth's 18th consecutive quarter of improved operating results, even though reported EPS of 66 cents reflected a previously disclosed charge of 5 cents for a regulatory settlement in South Carolina. Without the charge, EPS would have been 71 cents. EPS in the second quarter a year ago was 63 cents. Net income in the three months ended June 30, 1997 was \$654 million, including the charge of \$47 million, compared with \$629 million in the second quarter of 1996.

"Our strategies are working," said Duane Ackerman, BellSouth's president and chief executive officer. "We're continuing to achieve excellent current results, while making the investments we need to keep earnings growth going in the future. Our recent award of a cellular license in Brazil is one of those investments."

BellSouth continues to satisfy consumers' appetite for additional telephone lines in the home. Through innovative promotions, new distribution channels and special offers that bundle services, BellSouth installed a record 121,000 additional lines for residential customers in its nine-state region during the second quarter. Additional lines are now in 13 percent of the homes BellSouth serves. In all, BellSouth increased total residential and business access lines to 22,717,000, an annual growth rate of 4.6 percent.

As data communications command a rapidly expanding share of network capacity around the world, BellSouth continues to meet the needs of customers with a wide range of data services for consumers, small businesses and large businesses. Highlighting BellSouth's success in these growth markets is BellSouth.netsm service. Since its launch last August in just two cities, the consumer Internet service has expanded to 44 markets in the South. BellSouth.net achieved the 100,000 customer milestone during the second quarter.

"Our domestic and international strategies are all built on marketing an array of services, including long distance, that give our customers reliability, simplicity and

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value in one convenient package," said Ackerman.

Sales of BellSouth's calling features and convenience services continued to grow rapidly, posting a 25 percent increase to 33.4 million features activated. Revenues from services such as Call Waiting and MemoryCall® service voice messaging were \$322 million in the second quarter of 1997, up 26 percent from the same three months of 1996. Caller ID and Caller ID Deluxe combined grew more than 50 percent in the past year.

Rapid growth continued in BellSouth's wireless communications businesses, both in the U.S. and in international markets. The company's U.S. cellular operations ended the second quarter with 3.9 million customers, an annual growth rate of 21 percent. BellSouth Mobility DCS, the new digital wireless service launched by BellSouth and its partners in the Carolinas and Eastern Tennessee a year ago, now has a total of more than 106,000 customers.

In BellSouth's international cellular markets, customers reached 1.8 million, an increase of 83 percent since June 30, 1996. With the 1997 acquisitions of telecommunications companies in Peru, Nicaragua and Ecuador, BellSouth now serves cellular markets in 14 countries with 188 million potential customers. In addition, two weeks ago in Brazil, a company headed by BellSouth was awarded a license to operate cellular services in São Paulo, the third largest city in the world with a population of 18 million.

Before a \$72 million reduction related to the regulatory settlement, BellSouth's second quarter revenues increased 8.1 percent compared with the same quarter of 1996. Total operating expenses increased 7.8 percent, reflecting growth in wireless and development of new businesses such as BellSouth.net and BellSouth Mobility DCS. Cash operating expenses in BellSouth's telephone operations were up just 2.3 percent.

BellSouth is a \$19 billion communications services company. It provides telecommunications, wireless communications, directory advertising and publishing, video, Internet and information services to more than 28 million customers in 20 countries worldwide.

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For more information, contact:

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NOTE: For more information about BellSouth, visit the BellSouth Web page at <http://www.bellsouth.com>. Also, BellSouth news releases dating back one year are available by fax at no charge by calling 1-800-758-5804, ext. 095650.

Click here for a complete list of BellSouth Media Relations Contacts.

PRELIMINARY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments of WinStar Communications, Inc. in Docket No. RM-9101 was served on the following by U.S. Mail, this 30th day of July, 1997.

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